Posting of workers in the framework of the provision of services: enforcement of Directive 96 /71/EC

2012/0061(COD) - 09/12/2013

The Council reached a **general approach** on the posting of workers enforcement directive so that negotiations can start with the European Parliament with a view to reaching an agreement at first reading.

Ministers reached an overall compromise agreement on the two outstanding issues of the directive:

(1) National control measures (Article 9): they agreed that Member States may only impose administrative requirements and control measures necessary in order to ensure effective monitoring of compliance with the obligations set out in this directive and in the posting of workers directive of 1996 **provided these measures are justified and proportionate**.

These measures will have to be **notified to the Commission** and service providers will have to be informed through a single national website.

(2) Joint and several liability in subcontracting chain (Article 12): the agreed text provides that, as regards the activities relating to building work relating to the construction, Member States shall provide for measures ensuring that in subcontracting chains, posted workers can hold the contractor, of which the employer is a direct subcontractor, liable, in addition to or in place of the employer, for the respect of posted workers' rights regarding any outstanding net remuneration corresponding to the minimum rates of pay.

Instead of these liability rules, Member States may take other **appropriate enforcement measures**, in accordance with EU and national law and/or practice, which enable in a direct subcontracting relationship, effective and proportionate sanctions against the contractor, to tackle fraud and abuse, in situations where workers have difficulties in obtaining their rights.